



Attorney Docket no: 0553-0230.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Nishi et al.

Serial No.: 10/601,793

Filed: June 23, 2003

For: EL Display Device

Examiner: Joseph L. Williams

Art Unit: 2879

Commissioner for Patents  
P.O. Box 1450  
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Sharon Wallace  
Date: May 10 2006

RESPONSE TO RESTRICTION REQUIREMENT AND PROVISIONAL ELECTION

Applicants have the following response to the Restriction Requirement of April 10, 2006 and request reconsideration and withdrawal of the restriction requirement.

More specifically, on October 28, 2005, Applicants filed an Amendment and Interference Suggestion. In the Amendment and Interference Suggestion, Applicants added new Claims 79-93. New Claims 79-85 are directed to a top emitting OLED display (an apparatus) while new Claims 86-93 are directed to a method of making a light emitting OLED display (a method). As explained in the Interference suggestion, these claims are copied from and either exactly or substantially the same as claims 1, 2, 5-7, 9, 10, 15, 16, 19-23 and 28 (which are also directed to a top emitting OLED display (an apparatus) and a method of making a light emitting OLED display (a method)) of US patent no. 6,812,637 (Cok).

In the Cok patent, the Examiner searched and examined together both the apparatus and method claims, which eventually issued as patent claims 1, 2, 5-7, 9, 10, 15, 16, 19-23 and 28. Since the Patent Office has already examined these claims together, Applicants respectfully submit that it would not be an undue burden for the Examiner to also search and examine the exact or substantially similar Claims 79-93 in the present application.

MPEP 801 states MPEP 803 states "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

Since these claims have been searched and examined together previously, it is respectfully submitted that they all can be searched and examined again on the merits without undue burden. Accordingly, it is respectfully requested that this restriction requirement be withdrawn and the pending claims examined.

Please note that Applicants are not taking a position herein on whether there are distinct or independent inventions in the group of claims.

If the Examiner believes that it is too great a burden to examine all the pending claims (including pending Claims 37-78), then MPEP 2303 provides that the Examiner can issue a restriction requirement between the copied claims (i.e. the interfering claims) and the other claims of the application (i.e. the non-interfering claims).

While Applicants are requesting that this restriction be withdrawn, in response to the Restriction Requirement and in accordance with 35 USC 121, Applicants provisionally elect to prosecute Group II, Claims 79-85 in the above-identified application. Applicants are making this election in light of the above response and without disclaimer or prejudice to later filing a divisional application on the non-elected claims.

Conclusion

Accordingly, it is respectfully requested that the restriction requirement be reconsidered and withdrawn.

If any fee should be due for this response, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Mark J. Murphy', is written over a horizontal line.

Mark J. Murphy  
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